



ATTORNEY DOCKET NUMBER: 0492611-0418 (MIT 9023; MGH 2413)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kohane *et al.*
Serial No.: 09/981,460
Filed: October 16, 2001
Title: LIPID-PROTEIN-SUGAR PARTICLES FOR DELIVERY OF NUCLEIC
ACIDS

Examiner: Nguyen, Dave Trong
Art Unit: 1632

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION UNDER 37 C.F.R. § 1.132

I, Robert S. Langer, declare as follows:

1. I am an inventor of the subject matter disclosed and claimed in United States patent application Serial No. 09/981,460, filed October 16, 2001, and entitled "LIPID-PROTEIN-SUGAR PARTICLES FOR DELIVERY OF NUCLEIC ACIDS".
2. This Declaration is presented for the purpose of removing from consideration by the Examiner a reference by Edwards *et al.*, entitled "Preparation of Particles for Inhalation", U.S. Patent 5,985,309, issued November 16, 1999 (the '309 patent). The present Declaration is presented in accordance with *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982) and establishes that the allegedly anticipatory material in the '309 was not invented by another.
3. I am an inventor on the instant application and am also an inventor on the '309 patent.
4. David A. Edwards, Rita Vanbever, Jeffrey Mintzes, Jue Wang, and Donghao Chen are the other co-inventors on the '309 patent. Edwards, Vanbever, Mintzes, Wang, and Chen are not inventors of the claimed invention in the present application. Vanbever was working under my

direction when she participated in the research which was described in the '309 patent. Edwards, Mintzes, Wang, and Chen were collaborators on certain aspects of the claimed invention in the '309 patent; however, they did not contribute to the claimed invention of the present application.

5. I, Robert S. Langer, declare that all statements made herein of my own knowledge are true and that these statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like are made punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patents that may issue thereon.


Robert S. Langer, Sc.D.

3/15/04
Date

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